

## **REMARKS**

### **I. INTRODUCTORY REMARKS**

Claims 1-16 are pending in the application. By this Amendment, new claim 16 is added. In view of the foregoing amendments and following remarks, the Applicant respectfully submits that the application is in condition for allowance. Reconsideration and withdrawal of the rejections are respectfully requested.

### **II. CLAIM REJECTIONS UNDER 35 U.S.C. § 102**

On pages 2-4 of the Office Action dated July 10, 2008, claims 1-9 and 11-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,003,759 to Kenner *et al.* ("Kenner '759"). The rejection is respectfully traversed. Reconsideration and withdrawal of the rejection are respectfully requested in view of the following remarks.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); *see* M.P.E.P § 2131. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Here, claim 1 recites:

A folded box having side walls and a base unit and/or a lid unit, *at least one of the side walls having a convex curvature* when the folded box is folded up, the folded box further comprising

*at least one supporting unit connected to an inner surface of the convexly curved side wall, the at least one supporting unit having*

*a first adhesive tab and a second adhesive tab connected to the inner surface of the convexly curved side wall and arranged spaced apart from each other in the direction of the curvature; and*

*a supporting tab between the first and second adhesive tab, the supporting tab being connected to the first and the second adhesive tab via a first supporting tab fold and a second supporting tab fold, respectively, the length of the supporting tab corresponding to the distance between the first adhesive tab and the second adhesive*

tab, wherein, when the folded box is folded up, the supporting tab is adapted to be folded into the interior of the folded box or, when the folded box is folded up, the supporting tab is adapted to fold up automatically into the interior of the folded box. (emphasis added).

Thus, claim 1 recites "at least one of the side walls having a convex curvature" and "the at least one supporting unit having a first adhesive tab and a second adhesive tab connected to the inner surface of the convexly curved side wall and arranged spaced apart from each other in the direction of the curvature."

In contrast, Kenner '759 purportedly relates to a folding box including "an outer front-wall element (12), a rear-wall element (14), an inner front-wall element (16), a side-wall element (18), which is provided in each case between the outer front-wall element (12) and the rear-wall element (14) and between the rear-wall element (14) and the inner front-wall element (16) and is connected to the adjoining elements via border folding lines (24) . . . ." Kenner '759, Abstract. The folding box of Kenner '759 also includes "a lid unit (28), which is connected [to the outer front-wall element (12) and the rear-wall element (14)] via a folding line (22), and a base unit (30), which is connected [to the rear-wall element (14) and the inner front-wall element (16)] via a folding line (20)." Abstract. "[P]rovided in the region between the border folding lines (24) of one side-wall element (18) and/or of both side-wall elements (18) are at least a plurality of contour folding lines (26) running parallel to the border folding lines (24), with the result that *the cross-sectional contour of the side-wall element (18) corresponds to a cross-sectional contour which is curved convexly outwards.*" Abstract (emphasis added).

In rejecting the claims, the Office Action cites side-wall element (18) of Kenner '759 as corresponding to the at least one side wall having a convex curvature recited in instant claim 1. Office Action, page 2, numbered paragraph 2. The Office Action also cites second base flap 30.2 of Kenner '759 as corresponding to the recited "at least one supporting unit connected to an inner surface of the convexly curved side wall." Id. Although Kenner '759 teaches that the side-wall element 18 is curved convexly outwards, the second base flap 30.2 is not connected by any adhesive tab(s) to the side-wall element 18. Therefore, it is respectfully submitted that Kenner '759 fails to teach or suggest at least "a first adhesive tab and a second adhesive tab connected to the inner surface of the convexly curved side wall and arranged spaced apart from each other in the

direction of the curvature" as recited in instant claim 1. In fact, no adhesive tabs of any element described in Kenner '759 are connected to the side-wall element 18.

Accordingly, it is respectfully submitted that Kenner' 759 fails to anticipate at least claim 1 of the instant application. Claims 2-9 and 11-15 depend variously from claim 1 and are submitted as being allowable for at least the same reasons. Reconsideration and withdrawal of the rejection are respectfully requested.

### **III. CLAIM REJECTIONS UNDER 35 U.S.C. § 103**

On page 4 of the Office Action, claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kenner '759 in view of U.S. Patent No. 5,911,358 to Kenner ("Kenner '358"). The rejection is respectfully traversed.

According to the Office Action, "Kenner ['759] teaches everything except adhesive tabs folded to the lower or upper edge of the convexly curved sidewall." Office Action, page 4, numbered paragraph 4. The Office Action then states that "Kenner '358 teaches a folding box comprising adhesive tabs (50) folded via fold line (54) to convex sidewalls (16 and 18); further comprising slots (56) between the convex sidewalls and the adhesive tabs" and concludes that "[i]t would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Kenner's box [Kenner '759] to include adhesive tabs connected to the convex sidewalls with slots between in order to fashion effective wall reinforcement" (citation omitted).

The Applicant respectfully disagrees. Claim 10 depends from claim 1 and, therefore, includes each and every feature recited in claim 1. It is respectfully submitted that Kenner '358 fails to cure the deficiencies of Kenner '759 set forth above regarding some of the features recited in claim 1. That is, neither one of Kenner '759 and Kenner '358, alone or in combination, are believed to teach or suggest a folded box as recited in at least claim 1 including, inter alia:

at least one supporting unit connected to an inner surface of the convexly curved side wall, the at least one supporting unit having *a first adhesive tab and a second adhesive tab connected to the inner surface of the convexly curved side wall and arranged spaced apart from each other in the direction of the curvature*; and a supporting tab between the first and second adhesive tab, the supporting tab being connected to the first and the second adhesive

tab via a first supporting tab fold and a second supporting tab fold.  
(emphasis added).

Moreover, it is respectfully submitted that neither one of Kenner '759 and Kenner '358, alone or in combination, teach or suggest that the "first and second adhesive tabs of the supporting unit are integrally molded on a lower and/or upper front end edge of the convexly curved side wall via a first adhesive tab fold and a second adhesive tab fold, the folded box further comprising a slot between the convexly curved side wall and the supporting tab" as recited in claim 10.

Accordingly, it is respectfully submitted that neither one of claims 1 or 10 would have been obvious to one of ordinary skill in the art based on a fair and reasonable reading of Kenner '759 and/or Kenner '358. Reconsideration and withdrawal of the rejection are respectfully requested.

#### IV. CONCLUSION

Claims 1-16 are pending in the application. All of the stated grounds of objection and rejection are believed to have been properly overcome, traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. An early notice indicating the allowability of claims 1-16 is respectfully requested.

The Examiner is respectfully requested to contact Applicant's undersigned Representative if necessary to place the application in condition for allowance.

Prompt consideration and allowance of the application is respectfully requested.

Respectfully submitted,

Dated: January 12, 2009

By /Ryan M. Flandro/  
Robert Kinberg  
Registration No.: 26,924  
Ryan M. Flandro  
Registration No.: 58,094  
VENABLE LLP  
P.O. Box 34385  
Washington, DC 20043-9998  
(202) 344-4000  
(202) 344-8300 (Fax)  
Attorney/Agent For Applicant

DC2/1008179v1